

REMARKS:

Claims 1-37 are currently pending in the application.

Claims 1-36 stand rejected under 35 U.S.C. § 112, second paragraph.

Claims 1-11, 13-23, and 25-35 stand rejected under 35 U.S.C. § 102(e) over U.S. Patent No. 7,257,552 B1 to Franco ("*Franco*").

Claims 12, 24, and 36 stand rejected under 35 U.S.C. § 103(a) over *Franco* in view of Official Notice.

Applicant initially notes that Claims 1-37 are currently pending in the subject application. In addition, the Examiner appears to have only rejected Claims 1-36. Therefore, it appears that either Claim 37 is allowable over the cited reference, in which Applicant thanks the Examiner, or the Examiner inadvertently did not properly review Claim 37. Appropriate correction is requested.

Applicant respectfully submits that all of Applicant's arguments and amendments are without *prejudice* or *disclaimer*. In addition, Applicant has merely discussed example distinctions from the cited prior art. Other distinctions may exist, and as such, Applicant reserves the right to discuss these additional distinctions in a future Response or on Appeal, if appropriate. Applicant further respectfully submits that by not responding to additional statements made by the Examiner, Applicant does not acquiesce to the Examiner's additional statements. The example distinctions discussed by Applicant are considered sufficient to overcome the Examiner's rejections. In addition, Applicant reserves the right to pursue broader claims in this Application or through a continuation patent application. No new matter has been added.

REJECTION UNDER 35 U.S.C. § 112:

Claims 1-36 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicant respectfully disagrees.

Nonetheless, Applicant has amended Claims 1-36 to expedite prosecution of this Application and to more particularly point out and distinctly claim the subject matter which the Applicant regards as the invention. By making these amendments, Applicant does not indicate agreement with or acquiescence to the Examiner's position with respect to the rejections of these claims under 35 U.S.C. § 112, as set forth in the Office Action. Particularly, Applicant reserves the right to file additional claims in this Application or through a continuation patent application of substantially the same scope of originally filed Claims 1-37.

REJECTION UNDER 35 U.S.C. § 102(e):

Claims 1-11, 13-23, and 25-35 stand rejected under 35 U.S.C. § 102(e) over *Franco*.

Applicant respectfully submits that the *amendments to Claims 1-37 have rendered moot the Examiner's rejection of these claims and the Examiner's arguments in support of the rejection of these claims*. Applicant further respectfully submits that amended Claims 1-37 in their current amended form contain unique and novel limitations that are not taught, suggested, or even hinted at in *Franco*. Thus, Applicant respectfully traverses the Examiner's rejection of Claims 1-36 under 35 U.S.C. § 102(e) over *Franco*.

Applicant's Claims are Patentable over *Franco*

Applicant respectfully submits that the allegation in the present Office Action that *Franco* discloses all of the claimed features is respectfully traversed. Further, it is noted that the Office Action provides no concise explanation as to how *Franco* is considered to anticipate all of the limitations in Applicant's claims. *A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if each and every element of a claimed invention is identically shown in that single reference*. MPEP § 2131. Applicant respectfully points out that "*it is incumbent upon the [E]xaminer to identify wherein each and every facet of the claimed invention is disclosed in the applied reference*." Ex parte Levy, 17 U.S.P.Q.2d (BNA) 1461, 1462 (Pat. & Tm. Off. Bd. Pat. App. & Int. 1990). Applicant respectfully submit that the Office Action has failed to establish a *prima facie* case of anticipation in Applicant's claims under 35 U.S.C. § 102 with respect to *Franco*

because *Franco* fails to identically disclose every element of Applicant's claimed invention, arranged as they are in Applicant's claims.

Thus, for at least the reasons set forth herein, Applicant respectfully submits that amended Claims 1-37 are not anticipated by *Franco*. Applicant further respectfully submits that amended claims 1-37 are in condition for allowance. Thus, Applicant respectfully requests that the rejection of Applicants claims under 35 U.S.C. § 102(c) be reconsidered and that Claims 1-37 be allowed.

THE LEGAL STANDARD FOR ANTICIPATION REJECTIONS UNDER 35 U.S.C. § 102:

The following sets forth the legal standards for "anticipation."

The events that can lead to anticipation can be divided into the following seven categories, all defined by statute:

1. Prior Knowledge: The invention was publicly known in the United States before the patentee invented it.
2. Prior Use: The invention was publicly used in the United States either (i) before the patentee invented it; or (ii) more than one year before he filed his patent application.
3. Prior Publication: The invention was described in a printed publication anywhere in the world either (i) before the patentee invented it; or (ii) more than one year before he filed his patent application.
4. Prior Patent: The invention was patented in another patent anywhere in the world either (i) before the patentee invented it; or (ii) more than one year before he filed his application.
5. On Sale: The invention was on sale in the United States more than one year before the patentee filed his application.
6. Prior Invention: The invention was invented by another person in the United States before the patentee invented it, and that other person did not abandon, suppress or conceal the invention.

7. Prior U.S. Patent: The invention was described in a patent granted on a patent application filed in the United States before the patentee made the invention.

Each of those seven events has its own particular requirements, but they all have the following requirements in common:

1. Anticipation must be shown by clear and convincing evidence.
2. If one prior art reference completely embodies the same process or product as any claim, the product or process of that claim is anticipated by the prior art, and that claim is invalid. To decide whether anticipation exists, one must consider each of the elements recited in the claim and determine whether all of them are found in the particular item alleged to be anticipating prior art.
3. There is no anticipation unless every one of those elements is found in a *single* prior publication, prior public use, prior invention, prior patent, prior knowledge or prior sale. One may not combine two or more items of prior art to make out an anticipation. One should, however, take into consideration, not only what is expressly disclosed or embodied in the particular item of prior art, but also what inherently occurred in its practice.
4. There cannot be an accidental or unrecognized anticipation. A prior duplication of the claimed invention that was accidental, or unrecognized, unappreciated, and incidental to some other purpose is not an invalidating anticipation.

Those four requirements must be kept in mind and applied to each kind of anticipation in issue. The following additional requirements apply to some categories of anticipation.

1. Prior Knowledge: An invention is anticipated if it was known by others in the United States before it was invented by the patentee. "Known," in this context, means known to the public. Private knowledge, secret knowledge or knowledge confined to a small, limited group is not necessarily an invalidating anticipation. Things that were known to the public only outside the United States are not invalidating anticipation.

2. Prior Use: An invention is anticipated if it was used by others before it was invented by the patentee, or more than one year before the patentee filed his patent application. "Use," in this context, means a public use.

3. Prior Publication: A patent is invalid if the invention defined by the Claims was described in a printed publication before it was invented by the patentee or more than one year prior to the filing date of his application. For a publication to constitute an anticipation of an invention, it must be capable, when taken in conjunction with the knowledge of people of ordinary skill in the art, of placing the invention in the possession of the reader. The disclosure must be enabling and meaningful. In determining whether the disclosure is complete, enabling, and meaningful, one should take into account what would have been within the knowledge of a person of ordinary skill in the art at the time, and one may consider other publications that shed light on the knowledge such a person would have had.

4. Prior Patent: If the invention defined by the claims was patented in the United States or a foreign country, either before it was invented by the inventor or more than one year before the inventor filed his patent application, then the invention was anticipated. The effective date for this type of anticipation is the date on which two things co-existed: (i) the owner of the referenced patent had the right to enforce that patent; and (ii) the reference patent was available to the public. What was "patented" in the reference patent is determined by what is defined by its claims, interpreted in the light of the general description.

5. On Sale: A patent is invalid if the invention claimed in it was on sale in the United States more than one year prior to the application filing date.

6. Prior Invention: If the invention defined by the claims was invented by another person, in the United States, before it was invented by the inventor, and that other person did not abandon, suppress, or conceal the invention, the invention lacks novelty. A prior invention, even if put in physical form and shown to produce the desired result, is not an invalidating anticipation unless some steps were taken to make it public. However, it is not necessary that the inventor had knowledge of that prior invention.

7. Prior U.S. Application: A patent is invalid for lack of novelty if the invention defined by the claims was described in a United States patent issued on a patent application filed by another person before the invention was made by the inventor. The effective date of a prior application for purposes of this issue is the date on which it was filed in the United States. Foreign-filed patent applications do not apply. If the issued United States patent claims the benefit of more than one United States application, its effective date as an anticipation is the filing date of the first United States application that discloses the invention claimed in that referenced patent.

Experimental Use Exception: The law recognizes that it is beneficial to permit the inventor the time and opportunity to develop his invention. As such there is an "experimental use" exception to the "public use" and "on sale" rules. Even though the invention was publicly used or on sale, more than one year prior to the application filing date, that does not invalidate the patent, provided the principal purpose was experimentation rather than commercial benefit. If the primary purpose was experimental, it does not matter that the public used the invention or that the inventor incidentally derived profit from it.

When a public use or sale is shown, the burden is on the inventor to come forward with evidence to support the experimental use exception. Only experimentation by or under the control of the inventor qualifies for this exception. Experimentation by a third party, for its own purposes, does not qualify for this exception. Once the invention leaves the inventor's control, its use is a public one, even if further experimentation takes place.

The experimentation must relate to the claimed features of the invention. And it must be for the purpose of technological improvement, not commercial exploitation. If any commercial exploitation does occur, it must be merely incidental to the primary purpose of experimentation. A test done primarily for marketing, and only incidentally for technological improvement, is a public use.

REJECTION UNDER 35 U.S.C. § 103(a):

Claims 12, 24, and 36 stand rejected under 35 U.S.C. § 103(a) over *Franco* in view of Official Notice.

The Office Action Acknowledges that *Franco* Fails to Disclose Various Limitations Recited in Applicants Claims

Applicant respectfully submits that the Office Action acknowledges, and Applicant agrees, that *Franco* fails to disclose various limitations recited in Claims . Specifically the Examiner acknowledges that *Franco* fails to teach “wherein, if the consumer chooses to receive the product at the PFD rather than the current date in exchange for the PI , the consumer makes an initial payment to the retailer at the current date based on one or more costs to the DE associated with cancellation of the order.” (17 April 2008 Office Action, Page 21). However, the Examiner asserts Official Notice over the shortcomings in *Franco*. Applicant respectfully traverses the Examiner’s taking of Official Notice.

The Examiner’s *Official-Notice* is improper under MPEP § 2144.03

Applicant respectfully submits that Applicant is confused as to what the Examiner teaches by the Official Notice or even to the extent in which the Examiner is taking Official Notice. Applicant respectfully requests clarification as to the subject matter for which Official Notice is being taken. *Applicant respectfully traverses the Official Notice because the asserted facts*, as best understood by Applicant, *are not supported by substantial documentary evidence or any type of documentary evidence* and appear to be the Examiner’s opinions formulated using the subject Application as a template, which constitutes impermissible use of hindsight. Furthermore, under these circumstances, it is inappropriate for the Examiner to take Official Notice without documentary evidence to support the Examiner’s conclusion. (See MPEP § 2144.03). *Applicant respectfully requests the Examiner to produce authority for the Examiners Official Notice.*

Only “in limited circumstances,” is it “appropriate for an examiner to take official notice of facts not in the record or to rely on common knowledge in making a rejection”. (MPEP § 2144.03). “Official notice unsupported by documentary evidence *should only be taken by the examiner* where the facts asserted to be well-known, or to be common knowledge in the art are *capable of instant and unquestionable demonstration as being well-known*.”

With respect to the subject Application, the Examiner’s statement that:

Official Notice is taken that it is well known for vendors to charge fees or penalties or liquidated damages for cancellation of order to protect vendors from breach of contract by buyers. Usually a deposit or initial payment would be such liquidated damages. An example is loss of deposit in cancellation of buying a house or cancellation of a custom product e.g. a car.

is not capable of instant and unquestionable demonstration as being well-known. (17 April 2008 Office Action, Page 21). As noted by the court in *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970), the notice of facts beyond the record which may be taken by the examiner must be ‘*capable of such instant and unquestionable demonstration as to defy the dispute*’ (citing *In re Knapp Monarch Co.*, 296 F.2d 230, 132 U.S.P.Q. 6 (C.C.P.A. 1961)).” (MPEP § 2144.03(A)). (Emphasis Added).

“It is *never appropriate to rely solely on “common knowledge” in the art without evidentiary support in the record*, as the principal evidence upon which a rejection was based. *Zurko*, 258 F.3d at 1385, 59 USPQ2d at 1697. As the court held in *Zurko*, an assessment of basic knowledge and common sense that is not based on any evidence in the record lacks substantial evidence support. *Id.* at 1385, 59 USPQ2d at 1697. See also *In re Lee*, 277 F.3d 1338, 1344-45, 61 USPQ2d 1430, 1434-35 (Fed. Cir. 2002).” (MPEP § 2144.03(A)).

“Ordinarily, there must be some form of evidence in the record to support an assertion of common knowledge. See *Lee*, 277 F.3d at 1344-45, 61 USPQ2d at 1434-35 (Fed. Cir. 2002); *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697 (holding that *general conclusions concerning what is “basic knowledge” or “common sense” to one of ordinary skill in the art without specific factual findings and some concrete evidence in the record to support these findings will not support an obviousness rejection*). The examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge. See *Soli*, 317 F.2d at 946, 37 USPQ at 801; *Chevenard*, 139 F.2d at 713, 60 USPQ at 241. The applicant should be presented with the explicit basis on which the examiner regards the matter as subject to official notice and be allowed to challenge the assertion in the next reply after the Office action in which the common knowledge statement was made.” (MPEP § 2144.03(B)). (Emphasis Added).

Applicant respectfully submits that the Office Action provides no documentary evidence to support the Official Notice taken by the Examiner, yet the asserted facts are not capable of “instant

and unquestionable” demonstration as being well-known. Applicant further respectfully submits that Applicant has adequately traversed the Examiners assertion of Official Notice and direct the Examiner’s attention to the pertinent text of the MPEP, which states:

If applicant adequately traverses the examiner’s assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697 (“[T]he Board [or examiner] must point to some concrete evidence in the record in support of these findings” to satisfy the substantial evidence test). If the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2). (MPEP § 2144.03(C)).

Thus, if the Examiner continues to maintain the rejection of Claims 12, 24, and 36 based on the Official Notice, Applicant respectfully requests that the Examiner provide documentary evidence as necessitated by MPEP § 2144.03(C). Furthermore, if the Examiner is relying on personal knowledge to support the finding of what is known in the art, Applicant further respectfully requests that the Examiner provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding as further necessitated by MPEP § 2144.03(C).

The Office Action Fails to Properly Establish a *Prima Facie* case of Obvious over the Proposed *Franco*-Official Notice Combination According to the UPSTO Examination Guidelines

Applicant respectfully submits that the Office Action fails to properly establish a *prima facie* case of obviousness based on the proposed combination of *Franco* or the Examiner’s Official Notice, either individually or in combination, and in particular, the Office Action fails to establish a *prima facie* case of obviousness based on the “Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the Supreme Court Decision in *KSR International Co. v. Teleflex Inc.*” (the “Guidelines”).

As reiterated by the Supreme Court in *KSR International Co. v. Teleflex Inc.* (*KSR*), the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in

Graham v. John Deere Co. (383 U.S. 1, 148 USPQ 459 (1966)). Obviousness is a question of law based on underlying factual inquiries. These factual inquiries enunciated by the Court are as follows:

- (1) Determining the scope and content of the prior art;
- (2) Ascertaining the differences between the claimed invention and the prior art; and
- (3) Resolving the level of ordinary skill in the pertinent art.

(Notice, 72 Fed. Reg. 57527 (Oct. 10, 2007)). Objective evidence relevant to the issue of obviousness must be evaluated by Office personnel. (383 U.S. 17–18, 148 USPQ 467 (1966)). As stated by the Supreme Court in *KSR*, “While the sequence of these questions might be reordered in any particular case, the [*Graham*] factors continue to define the inquiry that controls.” (*KSR*, 550 U.S. at __, 82 USPQ2d at 1391).

However, it is important to note that the Guidelines require that Office personnel “**ensure that the written record includes findings of fact** concerning the state of the art and the teachings of the references applied. (Notice, 72 Fed. Reg. 57527 (Oct. 10, 2007)). In addition, the Guidelines remind Office personnel that the “**factual findings made by Office personnel are the necessary underpinnings to establish obviousness.**” (*id.*). Further, “**Office personnel must provide an explanation to support an obviousness rejection** under 35 U.S.C. 103. (*id.*). In fact, “35 U.S.C. 132 requires that the applicant be notified of the reasons for the rejection of the claim so that he or she can decide how best to proceed” and “clearly setting forth findings of fact and the rationale(s) to support a rejection in an Office action leads to the prompt resolution of issues pertinent to patentability.” (*id.*).

With respect to the subject application, the Office Action has not shown the **factual findings necessary to establish obviousness** or even **an explanation to support the obviousness rejection** based on the proposed combination of *Franco* and the Examiner’s Official Notice. The Office Action merely states:

Official Notice is taken that it is well known for vendors to charge fees or penalties or liquidated damages for cancellation of order to protect vendors from breach of contract by buyers. Usually a deposit or initial payment would be such liquidated damages. An example is loss of deposit in cancellation of buying a house or cancellation of a custom product e.g. a car.

(17 April 2008 Office Action, Page 21). Applicant respectfully disagrees and respectfully submits that the Examiner's conclusory statement is not sufficient to establish the *factual findings necessary to establish obviousness* and is not a sufficient *explanation to support the obviousness rejection* based on the proposed combination of *Franco* and the Examiner's Official Notice.

The Guidelines further provide guidance to Office personnel in "determining the scope and content of the prior art" such as, for example, "Office personnel must first obtain a thorough understanding of the invention disclosed and claimed in the application." (Notice, 72 Fed. Reg. 57527 (Oct. 10, 2007)). The scope of the claimed invention must be clearly determined by giving the claims the "broadest reasonable interpretation consistent with the specification." (See *Phillips v. AWH Corp.*, 415 F.3d 1303, 1316, 75 USPQ2d 1321, 1329 (Fed. Cir. 2005) and MPEP § 2111.). In addition, the Guidelines state that any "*obviousness rejection should include*, either explicitly or implicitly in view of the prior art applied, *an indication of the level of ordinary skill*." (Notice, 72 Fed. Reg. 57528 (Oct. 10, 2007)). With respect to the subject Application, the Office Action has not provided *an indication of the level of ordinary skill*.

The Guidelines still further provide that once the *Graham* factual inquiries are resolved, Office personnel must determine whether the claimed invention would have been obvious to one of ordinary skill in the art. (*Id.*). For example, the Guidelines state that *Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.* (*Id.*). In addition, the Guidelines state that the proper analysis is *whether the claimed invention would have been obvious to one of ordinary skill in the art after consideration of all the facts.* (*Id.* and See 35 U.S.C. 103(a)).

With respect to the subject Application, the Office Action has not expressly resolved any of the *Graham* factual inquiries to determine whether Applicant's invention would have been obvious to one of ordinary skill in the art. In addition, the Office Action fails to *explain why the difference(s) between the proposed combination of Franco, the Examiner's Official Notice, and Applicant's claimed invention would have been obvious to one of ordinary skill in the art.* The Office Action merely states that "it would have been obvious to a PHOSITA to add such customary practice to the system of *Franco* to protect vendors." (17 April 2008 Office Action, Page 21). Applicant respectfully disagrees and further respectfully requests clarification as to how this

statement *explains why the difference(s) between the proposed combination of Franco, the Examiner's Official Notice, and Applicant's claimed invention would have been obvious to one of ordinary skill in the art.* Applicant further respectfully submits that the Examiner is using the subject Application as a template to formulate reconstructive hindsight, which constitutes impermissible use of hindsight under 35 U.S.C. § 103(a).

The Guidelines yet further state that the “key to supporting any rejection under 35 U.S.C. 103 is the *clear articulation of the reason(s) why the claimed invention would have been obvious.*” (Notice, 72 Fed. Reg. 57528 (Oct. 10, 2007)). In fact, the Supreme Court in *KSR* noted that “*the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit.*” (*id.*). The Court quoting *In re Kahn* (441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)), stated that “[R]ejections on *obviousness cannot be sustained by mere conclusory statements*; instead, there *must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.*”” (*KSR*, 550 U.S. at __, 82 USPQ2d at 1396). The Guidelines provide the following seven rationales:

- (A) Combining prior art elements according to known methods to yield predictable results;
- (B) Simple substitution of one known element for another to obtain predictable results;
- (C) Use of known technique to improve similar devices (methods, or products) in the same way;
- (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;
- (E) “Obvious to try”—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success;
- (F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art;
- (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention.

Applicant respectfully submits that the *Office Action fails to provide any articulation, let alone, clear articulation of the reasons why Applicant's claimed invention would have been obvious.* For example, the Examiner has not adequately supported the selection and combination

of Franco and the Examiner's Official Notice to render obvious Applicant's claimed invention.

The Examiner's unsupported conclusory statements that:

Official Notice is taken that it is well known for vendors to charge fees or penalties or liquidated damages for cancellation of order to protect vendors from breach of contract by buyers. Usually a deposit or initial payment would be such liquidated damages. An example is loss of deposit in cancellation of buying a house or cancellation of a custom product e.g. a car. Thus it would have been obvious to a PHOSITA to add such customary practice to the system of Franco to protect vendors.

(17 April 2008 Office Action, Page 21), *does not adequately provide clear articulation of the reasons why Applicant's claimed invention would have been obvious.* (17 April 2008 Office Action, Page 21). In addition, the Examiner's unsupported conclusory statement fails to meet any of the Guidelines rationales to render obvious Applicant's claimed invention.

Thus, if the Examiner continues to maintain the obvious rejection based on the proposed combination of *Franco* and the Examiner's Official Notice, *Applicant respectfully requests that the Examiner provide proper support for the obviousness rejection under 35 U.S.C. 103 as necessitated by the Guidelines, including a statement by the Examiner identifying which one of the seven rationales the Examiner is relying on and the proper analysis of that particular rationale, as required by the Guidelines.*

Applicant's Claims are Patentable over the Proposed *Franco*-Official Notice Combination

Applicant respectfully submits that, as discussed above, independent Claims 1, 13, 25, and 37 are considered patentably distinguishable over *Franco*. This being the case, dependent Claims 12, 24, and 36 are considered patentably distinguishable over the proposed combination of *Franco* and the Examiner's Official Notice, for at least the reason of depending from an allowable claim.

Thus, the Applicant respectfully submits that Claims 12, 24, and 36 are not rendered obvious by the proposed combination of *Franco* and the Examiner's Official Notice. Applicant further respectfully submits that Claims 12, 24, and 36 are in condition for allowance. Thus, Applicant respectfully requests that the rejection of Claims 12, 24, and 36 under 35 U.S.C. § 103(a) be reconsidered and that Claims 12, 24, and 36 be allowed.

CONCLUSION:

In view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and early reconsideration and a Notice of Allowance are earnestly solicited.

Although Applicant believe no fees are deemed to be necessary; the undersigned hereby authorizes the Commissioner to charge any additional fees which may be required, or credit any overpayments, to **Deposit Account No. 500777**. If an extension of time is necessary for allowing this Response to be timely filed, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) to the extent necessary. Any fee required for such Petition for Extension of Time should be charged to **Deposit Account No. 500777**.

Please link this application to Customer No. 53184 so that its status may be checked via the PAIR System.

Respectfully submitted,

17 July 2008

Date

/Steven J. Laureanti/signed

Steven J. Laureanti, Registration No. 50,274

BOOTH UDALL, PLC
1155 W. Rio Salado Pkwy., Ste. 101
Tempe AZ, 85281
214.636.0799 (mobile)
480.830.2700 (office)
480.830.2717 (fax)
steven@boothudall.com

CUSTOMER NO. 53184